

REMARKS

Upon entry of this amendment, claims 1, 3-24, and 26-41 will be pending. The Office has rejected all of the claims under 35 U.S.C. § 102(e) in view of Walker, Jenkins, and Treyz. Applicant asks the Office to reconsider this application and to allow all of the claims.

The Rejection in view of Walker

With regard to claims 1 and 24, Walker does not show nor suggest "assessing the quality-of-service received by [a] customer during [a] visit [to a service establishment]," "deciding that the quality-of-service was inadequate," and "offering [an] identified product or service to the customer at a discount before the customer leaves the service establishment." The coupons and discounts awarded to customers in Walker's system are given without regard to the service-quality experienced by the customer, and in fact they must be. Walker provides no mechanism for measuring quality-of-service, nor does he suggest that such a mechanism might even be desired. Likewise, with respect to claim 23, Walker does not show a network of computers located within a group of service establishments, where each computer is configured to "assess whether [a] customer is receiving adequate service" in the service establishment and, if not, "assist in delivering an offer to compensate the customer for the inadequate service." Accordingly, these claims and their dependents all are patentable over Walker.

With respect to claims 15 and 36, Walker says nothing about "measuring a customer's wait-time in a service lane" at a service establishment. Walker does not acquire a signal "from a device carried by the customer when the customer reaches a first checkpoint," nor does he "initiate a time-monitoring sequence upon receiving" such a signal. It follows then that Walker does not acquire another signal "from the device when the customer reaches a second checkpoint" nor "end the time-monitoring sequence upon receiving" this signal. In other words, Walker does not show a single element of either of these claims. Therefore, these claims and their dependents all are patentable over Walker.

The Rejection in view of Jenkins

Applicant does not understand how Jenkins relates at all to Applicant's invention. The system described by Jenkins has nothing to do with providing services to customers at a service establishment, let alone assessing the quality-of-service experienced by a customer or measuring the customer's waiting time in a service lane of such an establishment.

The Office itself has put forth rules requiring, among other things, that "when a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." 37 C.F.R. § 1.104(c)(2). The Office has failed to abide by this self-imposed rule in this case. At the very least, Jenkins shows inventions other than Applicant's invention, as evidenced in the patent's opening paragraph:

The invention is essentially a system and method for accessing and leaving messages at physical coordinate way points. Using hand held, user supported, or car mounted wireless computing and/or communication devices, users can either leave or access messages which become available by virtue of the physical coordinate location of a wireless network subscriber's device.

Applicant does not see how this system for "accessing and leaving messages at physical coordinate way points" is at all related to Applicant's invention, and the Office action fails to provide any guidance on the matter. The action provides no explanation whatsoever as to which parts of the Jenkins patent (or any of the other patents, for that matter) might anticipate Applicant's claims. The action states simply that the claims are "clearly anticipated by Jenkins '713, Walker et al. '240 or Treyz et al. '835." (Page 3, lines 1-2.) No further explanation is given. Without more, Applicant cannot begin to understand what it is in the Jenkins patent that the Office believes is relevant to Applicant's claims.

The Rejection in view of Treyz

Treyz also fails to show or even suggest certain aspects of Applicant's invention, including "assessing the quality-of-service received by [a] customer during [a] visit [to a service establishment]" (claims 1 and 24); "assessing whether [a] customer is receiving adequate service" (claim 23); and "measuring a customer's wait-time in a service lane" at a service establishment (claims 15 and 36). As a result, all of the claims are patentable over Treyz.

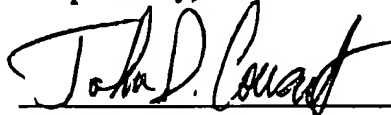
Furthermore, Treyz, even more so than Jenkins, is a very complex patent – one that is 155 pages long and includes 118 figures and 70 columns of text. The provisions of 37 C.F.R. § 1.104(c)(2) no doubt were drafted precisely for this situation – to ensure that an adequate explanation of the reasons for rejection would be forthcoming when a reference as complex as Treyz was applied against the claims. As with Jenkins, however, the Office has given no explanation of the rejection in view of Treyz. Applicant is left to guess as to which parts of the Treyz patent were relevant enough to support a rejection of the claims.

CONCLUSION

None of the references cited – Walker, Jenkins, or Treyz – shows or even suggests the invention as covered in any of Applicant's claims. All of the claims are therefore allowable over these patents.

Applicant asks the Examiner to reconsider this application and to allow all of the claims. Please apply any charges that might be due, excepting the issue fee but including fees for extensions of time, to deposit account 50-1673.

Respectfully,



John D. Cowart
Reg. No. 38,415

NCR Corporation
1700 South Patterson Blvd.
Dayton, Ohio 45479-0001

Tel. No. (858) 485-4903
Fax No. (858) 485-3255

**Appendix B - Copy of the Return Postcard showing an OIPE receive date of
January 29, 2004.**

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

STOP NO FEE AMENDMENT
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

9378
 9378 + 8889

COMPLETE THIS SECTION ON DELIVERY

Signature ☒ Agent
 Received by (Printed Name) ☐ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
- ☐ Registered ☒ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number **7002 2030 0006 3697 0212**

(Transfer from service label)

US Form 3811, August 2001

Domestic return receipt

102595-02-M-0835

JMS WHO



MAIL ACKNOWLEDGMENT

X 2211-41 1299

Serial Number **09/943,708** Date Filed **8/31/01**

Inventor's Name

D. Frazier

ITEM MAILED

☐ Issue Fee ☐ Maintenance Fee

☒ Amendment ☐ Application Papers

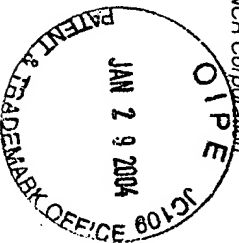
☐ IDS ☒ Docket Number **(9378)**

☐ Letter in Re Drawings

☐ Missing Parts

PATENT AND TRADEMARK OFFICE

Please acknowledge date received and return card to NCR Corporation



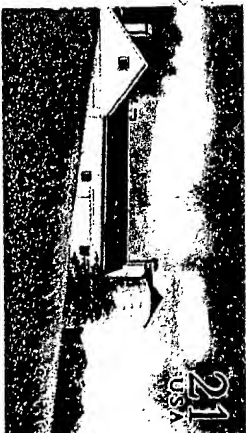
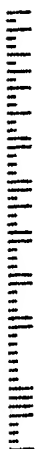
UNITED STATES POSTAL SERVICE



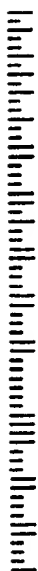
First-Class Mail
 Postage & Fees
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

JAMES M. STOVER
LAW DEPARTMENT, IP, WHO
NCR CORPORATION
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001



James M. Stover **WHO**
NCR CORPORATION
LAW DEPARTMENT
INTELLECTUAL PROPERTY SECTION
DAYTON OH 45479-0001



**Appendix C - Copy of the first class envelope mailed to the USPTO containing the
reply to the Office action.**

First Class Mail

MAIL STOP NO FEE AMENDMENT
COMMISSIONER FOR PATENTS
P O BOX 1450
ALEXANDRIA VA 22313-1450

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
Here

Total Post
**MAIL STOP NO FEE AMENDMENT
COMMISSIONER FOR PATENTS
P O BOX 1450
ALEXANDRIA VA 22313-1450
9378 + 8889**

PS Form 3800, June 2002 See Reverse for Instructions

MAIL ACKNOWLEDGMENT
X 2211-1 1299



TO	
PATENT AND TRADEMARK OFFICE <i>Please acknowledge date received and return card to NCR Corporation.</i>	
Date Filed	8/31/01
Serial Number	09/943,708
Inventor's Name	D. Frazier
ITEM MAILED	
<input type="checkbox"/> Issue Fee	<input type="checkbox"/> Maintenance Fee
<input checked="" type="checkbox"/> Amendment	<input type="checkbox"/> Application Papers
<input type="checkbox"/> IDS	<input checked="" type="checkbox"/> Docket Number (3378)
<input type="checkbox"/> Letter in Re Drawings	<input type="checkbox"/> Missing Parts

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**MAIL STOP NO FEE AMENDMENT
COMMISSIONER FOR PATENTS
P O BOX 1450
ALEXANDRIA VA 22313-1450
9378
9378 + 8889**

2. Article Number
(Transfer from service label)

7002 2030 0006 3697 0212
7002 2030 0006 3697 0212

PS Form 3811, August 2001

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
X ☐ Agent
☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

102505-02-44-0835

JAMES M. STOVER
LAW DEPARTMENT, LP, WHO
NCR CORPORATION
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001